

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

TERESA ROBIN HAYES,	)	Civil Action No.: 4:07-3905-TLW-TER
	)	
Plaintiff,	)	
	)	
-vs-	)	<b>REPORT AND RECOMMENDATION</b>
	)	
	)	
RUGGED WAREHOUSE, INC.,	)	
	)	
Defendant.	)	
_____	)	

Presently before the Court is Defendant's Motion to Dismiss (Document # 4) counts two and three of Plaintiff's Complaint. Count two is a state law cause of action for breach of the duty of good faith and fair dealing, and count three is a state law claim for breach of contract accompanied by a fraudulent act. Defendant asserts that these claims should be dismissed because Plaintiff is limited to the statutory remedy provided in the Family Medical Leave Act, 29 U.S.C. § 2601 et al.

In her Rule 26.03 Report (Document # 13), Plaintiff states that "upon further review of the authority cited by Defendant in its motion to dismiss, Plaintiff does not dispute that said state law claims [counts two and three] are preempted under current law. See Plaintiff's Rule 26.03 Report at ¶ 4. Accordingly, it is recommended that Defendant's Motion to Dismiss (Document # 4) be granted and counts two and three of Plaintiff's complaint be dismissed.

s/Thomas E. Rogers, III  
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Thomas E. Rogers, III  
United States Magistrate Judge

June 17, 2008  
Florence, South Carolina

**The parties' attention is directed to the important notice contained of the following page.**